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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,837	02/04/2002	Robert C. Batters	2B06.1-011	5150

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EXAMINER

LINDSEY, RODNEY M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,837

Applicant(s)

BATTERS ET AL.

Examiner

Rodney M. Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 5, line 18 “rivited” it appears should be --riveted--.

Appropriate correction is required.

Claim Objections

2. Claim 6 is objected to because of the following informalities: the positive reference to the iliac crest is confusing, as the iliac crest is not being claimed. It appears that --for being-- should be inserted after “device” on line 2 and after “device” on line 3. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6, 8, 9-12, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolb. With respect to claims 1 and 2 note Figure 9 and garment/belt 32a and protective device or loop of material 24a. With respect to claim 3 material 24a is a pad. With respect to claim 6 note the first and second protective devices as at 24a, 26a. With respect to claim 8 note 48, 50 at the ends of 46. With respect to claim 9 note Figure 12 and the loop and opening of the protective device 24a. With respect to claims 10 and 11 note the strip of material 46 releasably

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fastened at 48, 50. With respect to claim 12 material 24a is a pad. With respect to claim 19 note the installed first padded loop of material 24a on the work belt 32a positioned adjacent the iliac crest. With respect to claim 19 note the second padded loop 26a positioned adjacent the iliac crest.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 7, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolb in view of Spillane et al. Kolb does not teach the loop of material or protective device being of a polyester fabric or three-dimensional knit spacer fabric. Spillane et al. teach old the use of polyester fabric in a three-dimensional knit spacer fabric as an alternative to pads/cushions (see column 4, lines 49-66). It would have been obvious to substitute the fabric of Spillane et al. for the pad of Kolb to achieve a like result of providing cushioning but with the advantage of allowing better air and moisture permeability.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolb in view of Smith et al. Kolb does not teach the loop material comprising a multi-layered construction. Smith et al. teach old multi-layers 32, 36 of polyester fabric in forming a strap cushion. It would have been obvious to substitute the fabric layered cushion of Smith et al. for that at 24a, 26a of Kolb to achieve a like result of providing cushioning but with the advantage of being washable.

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8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolb in view of Spillane et al. as applied to claim 13 above, and further in view of Smith et al. Kolb does not teach the loop material comprising a multi-layered construction. Smith et al. teach old multi-layers 32, 36 of polyester fabric in forming a strap cushion. It would have been obvious to substitute the fabric layered cushion of Smith et al. for that at 24a, 26a of Kolb to achieve a like result of providing cushioning but with the advantage of being washable.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolb.

Note the belt 32a having buckle end 38a, free end 40a and a length and first protective device 24a and second protective device 26a. Kolb does not expressly locate the first protective device relative to a positional point located 20-25% of the belt's length from one end of the belt and the second protective device relative thereto. It would have been obvious to one of ordinary skill in the art at the time of the invention to so locate the first and second protective devices of Kolb since such locations would correspond generally to the location of the hips relative to the belt as contemplated by Kolb.

10. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calnan.

Note the belt 1 with buckle end at 5', an opposite free end engaged in buckle 5' and a length between the ends, first protective device 8 and second protective device 9. Calnan does not expressly locate the first protective device relative to a positional point located 20-25% of the belt's length from one end of the belt and the second protective device relative thereto. It would have been obvious to one of ordinary skill in the art at the time of the invention to so locate the first and second protective devices of Kolb since the positional point location would correspond generally to the location of the hips relative to the belt as contemplated by Calnan. With respect

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to claim 17 as the location of devices 8, 9 are in close proximity to the hip a spaced distance of 1"-4" would have been considered an obvious matter of choice and design to one of ordinary skill in the art at the time of the invention since all that would have been critical is that the devices approximate the location of the hips. With respect to claim 18 note the location of the second positional point between third and fourth protective devices 8, 9 opposite the first positional point and first and second protective devices 8, 9.

Conclusion

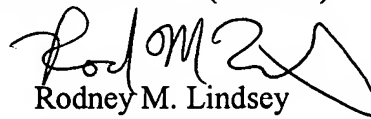
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the belt and supports of Tinker, Miller, Rogers et al., Moschetti et al., Speirs and Godshaw and the loop devices of French patent to Contreras, Truax and Wojciak et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (703) 305-7818. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney M. Lindsey
Primary Examiner
Art Unit 3765

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